

# **ACCOUNTABILITY PEER REVIEW**

## **New York State**



**The University of the State of New York  
New York State Education Department  
Albany, New York 12234**

**December 10, 2002  
(Revised January 6, 2003)**

**PRINCIPLE 1. A single statewide Accountability System applied to all public schools and LEAs.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>1.1 How does the State Accountability System include every public school and LEA in the State?</p>	<p>Every public school and LEA is required to make adequate yearly progress and is included in the State Accountability System.</p> <p>State has a definition of “public school” and “LEA” for AYP accountability purposes.</p> <ul style="list-style-type: none"> <li>• The State Accountability System produces AYP decisions for all public schools, including public schools with variant grade configurations (e.g., K-12), public schools that serve special populations (e.g., alternative public schools, juvenile institutions, state public schools for the blind) and public charter schools. It also holds accountable public schools with no grades assessed (e.g., K-2).</li> </ul>	<p>A public school or LEA is not required to make adequate yearly progress and is not included in the State Accountability System.</p> <p>State policy systematically excludes certain public schools and/or LEAs.</p>

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 1.1 How does the State Accountability System include every public school and LEA in the State?

Attachment C of the November 20, 2002 report to the Board of Regents on “Implementation of the Accountability Provisions of the No Child Left Behind Act” (see Attachment 1.1a) states the following guiding principle for New York State’s Conceptual Framework for No Child Left Behind: “New York shall have a single, statewide accountability system that ensures all public school districts and all public schools are making adequate progress towards having all students meet State standards.” An addendum was made to the Regents item on December 12 (see Attachment 1.1b). The Board of Regents approved the Conceptual Framework on December 12, 2002.

8 NYCRR §100.2(p)(3) (see Attachment 1.1c, p. 408) states that each year “the commissioner shall review the performance of all public schools in the State.” 8 NYCRR §100.2(p)(8) (see Attachment 1.1b, p.414) further states that “The commissioner shall establish adequate yearly progress targets for each school performing below a school accountability performance criterion.” 8 NYCRR §100.2(p)(4)(iii) (see Attachment 1.1c, p.409) states that “Each year, public schools in which no students participate in the State testing program for English language arts shall conduct a self-assessment of their academic program and the school learning environment.”

Prior to the end of this school year, the Regents will modify these regulations to explicitly require that the Commissioner review the performance of all schools and LEAs in the State to determine whether they have made adequate yearly progress. The regulations will also specify the use of backmapping for schools that cover only grades below grade 4.

Article 56 of Education Law (see Attachment 1.1b(1)) requires charter schools to be subject to the State assessment requirements and student performance standards adopted by the Board of Regents.

The single statewide accountability system will apply to all public schools and LEAs. Principals of public schools are responsible for submitting records for all students who were on the school’s attendance register at any time during the school year. Superintendents of public school LEAs (districts) are responsible for reporting assessment and other outcome data for students residing in the LEA (district) who are not the reporting responsibility of any principal in the LEA (district). That is, the superintendent must report students who have been placed in educational programs outside the LEA (district) by the committee on special education or by decision of LEA (district) and school administrators. The LEAP and STEP Manuals (see Attachments 1.1d and 1.1e) and the System of Accountability for Student Success Manual (see Attachment 1.1f) provide rules to all public schools and LEAs for reporting students.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
1.2 How are all public schools and LEAs held to the same criteria when making an AYP determination?	<p>All public schools and LEAs are systematically judged on the basis of the same criteria when making an AYP determination.</p> <p>If applicable, the AYP definition is integrated into the State Accountability System.</p>	Some public schools and LEAs are systematically judged on the basis of alternate criteria when making an AYP determination.
<b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b>		
<p>1.2 How are all public schools and LEAs held to the same criteria when making an AYP determination?</p> <p>Attachment C of the November 20, 2002 report to the Board of Regents on “Implementation of the Accountability Provisions of the No Child Left Behind Act” (see Attachment 1.1a) states that as a guiding Principle for New York State’s Conceptual Framework for No Child Left Behind Accountability:</p> <ol style="list-style-type: none"> <li>1. The academic performance of all students — including students who do not participate in the regular State testing program and students who are educated out of district — shall be part of the State accountability system that will have the capability to collect individual student results and track the progress of students through their school careers.</li> <li>2. The assessments used to measure student performance shall be valid and reliable and shall be the same for all schools and districts in the State.</li> </ol> <p>Attachment A, Items 3–4 of the November 20, 2002 document states that the School Accountability Performance Index shall be used as the accountability measure for all public elementary and middle schools, and the High School Performance Index for high schools. Attachment A also specifies that LEAs (districts) shall be held to the same accountability standards as schools (Item 14) and backmapping shall be used to hold elementary schools that do not participate in the State testing program accountable for student performance (Item 13). (See Attachment 1.2a.)</p> <p>The Board of Regents approved the Conceptual Framework on December 12, 2002.</p> <p>By the end of this school year, the Board of Regents will amend 8 NYCRR Part 100 to incorporate these provisions into regulation.</p> <p>The accountability section of the report card shows this information based on school performance, adequate yearly progress targets, and the State standard for all public schools in the State on accountability measures. Attachment 1.2b is the accountability report that was sent to each school LEA (district) in July 2002.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>1.3 Does the State have, at a minimum, a definition of <i>basic</i>, <i>proficient</i> and <i>advanced</i> student achievement levels in reading/language arts and mathematics?</p>	<p>State has defined three levels of student achievement: <i>basic</i>, <i>proficient</i> and <i>advanced</i>.<sup>1</sup></p> <p>Student achievement levels of <i>proficient</i> and <i>advanced</i> determine how well students are mastering the materials in the State's academic content standards; and the <i>basic</i> level of achievement provides complete information about the progress of lower-achieving students toward mastering the <i>proficient</i> and <i>advanced</i> levels.</p>	<p>Standards do not meet the legislated requirements.</p>

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<sup>1</sup> System of State achievement standards will be reviewed by the Standards and Assessments Peer Review. The Accountability Peer Review will determine that achievement levels are used in determining AYP.

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

- 1.3 Does the State have, at a minimum, a definition of *basic*, *proficient* and *advanced* student achievement levels in reading/language arts and mathematics?

New York State has received approval under the previous reauthorization of ESEA for its definitions of basic, proficient, and advanced. Attachment 1.3a is the letter of approval from USDOE, which is also available on the Web at [www.ed.gov/admins/lead/account/finalassess/](http://www.ed.gov/admins/lead/account/finalassess/). See also Attachment 1.2a: November 2002 Regents Item (Attachment A).

The State has defined basic as the performance of a student who scores Level 1 on the grade 4 or 8 English language arts assessment, takes the New York State Alternate Assessment (NYSAA), shows Level 1 growth on the New York State English as a Second Language Achievement Test (NYSESLAT), is a student with disabilities who participates in the local assessment option approved for the 2002–03 school year only, or scores less than a 55 on a Regents examination or less than a 65 on a Regents competency test within four years of first entry into ninth grade. See attachment 1.3b for information on growth standards on the NYSESLAT. (See the State's response to Critical Element 3.2a for a discussion of future use of the NYSA.

The State has defined proficiency as the performance of a student who scores Level 3 on the grade 4 or 8 English language arts assessment, shows Level 3 growth on the NYSESLAT, scores between 65 and 84 on a Regents examination, or passes an approved alternative to a Regents examination.

The State has defined advanced as the performance of a student who scores Level 4 on the grade 4 or 8 English language arts assessment, shows Level 4 growth on the NYSESLAT, or scores 85 or higher on a Regents examination.

The State has also defined an additional level of achievement: basic proficiency. Basic proficiency is defined as the performance of a student who scores Level 2 on the grade 4 or 8 English language arts assessment, shows Level 2 growth on the NYSESLAT, scores between 55 and 64 on a Regents examination or 65 or greater on a Regents competency test within four years of first entry into ninth grade.

Attachment A, Items 1–2 of the November 20, 2002 report to the Board of Regents (see Attachment 1.2a) defines proficiency in reading/language arts and mathematics as a score of Level 3 or higher on the grades 4 and 8 English language arts and mathematics assessments and a score of 65 or greater on Regents examinations in English language arts and mathematics. 8 NYCRR §100.2(p)(12)(iv) (see Attachment 1.3c) states that Level 3 scores indicate that “a student's performance meets the standards assessed ....”

The Board of Regents approved the Conceptual Framework on December 12, 2002.

By the end of this school year, the Board of Regents shall amend 8 NYCRR Part 100 to incorporate these definitions into regulation.

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>1.4 How does the State provide accountability and adequate yearly progress decisions and information in a timely manner?</p>	<p>State provides decisions about adequate yearly progress in time for LEAs to implement the required provisions before the beginning of the next academic year.</p> <p>State allows enough time to notify parents about public school choice or supplemental educational service options, time for parents to make an informed decision, and time to implement public school choice and supplemental educational services.</p>	<p>Timeline does not provide sufficient time for LEAs to fulfill their responsibilities before the beginning of the next academic year.</p>

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

1.4 How does the State provide accountability and adequate yearly progress decisions and information in a timely manner?

In July 2002, the New York State Education Department sent a school accountability status report (see Attachment 1.4a) to schools and LEAs (districts) to indicate their accountability status as of September 2002 and to give them an opportunity to submit student performance data for the 2001–02 school year that might enable them to be removed from the list of schools in need of improvement. The Department sent out a memorandum with these reports to explain how a school's status is determined (see Attachment 1.4b). In September 2002, the Department published on its Web site lists of schools in need of improvement (see Attachments 1.4c and 1.4d).

A timeline (see Attachment 1.4e) is established by New York State and the grades 4 and 8 assessments development contractor that specifies when student score reports will be sent to schools. However, as soon as schools score the assessments, the contractor will provide a conversion chart for determining scaled scores and performance levels so that answer document scanning centers can provide schools with this information in advance of the contractor mailing reports to schools. The dates on which the conversion charts will be available are shown on Attachment 1.4e. The State provides LEAP and STEP software for LEAs (districts) to report student performance electronically to the State. LEAP and STEP manuals (see Attachments 1.4f and 1.4g) provide timelines for the reporting of data. When the State receives an LEA's (district's) data, a verification report is sent to the LEA (district) to allow the LEA (district) to confirm or change the data to ensure accurate reporting (see Attachment 1.4h—sample verification report).

For secondary-level Regents examinations, schools score the examinations. Therefore, data on these examinations are available immediately.



CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>1.5 Does the State Accountability System produce an annual State Report Card?</p>	<p>The State Report Card includes all the required data elements [see Appendix A for the list of required data elements].</p> <p>The State Report Card is available to the public at the beginning of the academic year.</p> <p>The State Report Card is accessible in languages of major populations in the State, to the extent possible.</p> <p>Assessment results and other academic indicators (including graduation rates) are reported by student subgroups</p>	<p>The State Report Card does not include all the required data elements.</p> <p>The State Report Card is not available to the public.</p>

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 1.5 Does the State Accountability System produce an annual State Report Card?

Yes. New York State will produce a State Report Card (see Attachment 1.5a) that will include information, in the aggregate, on student achievement at each proficiency level on the State academic assessments, disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged. The report card will also include the most recent two-year trend in student achievement in each subject area, and for each grade level, for English language arts, mathematics, and science. Graduation rates for secondary school students disaggregated by student subgroups will also be included. The professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which (for this purpose) means schools in the top quartile of poverty and the bottom quartile of poverty in the State will also be provided. A separate section will indicate whether each accountability subgroup in each school and LEA (district) made adequate yearly progress and will identify the school accountability status of each school and LEA (district) (see Attachment 1.5b). This section will also include a comparison between the actual achievement levels of each student subgroup and the State's annual measurable objective for each such group of students on each of the academic assessments. The State Report Card will include a list of schools within each LEA that is in improvement or corrective actions status, similar to the two lists included on the Web in the past (see Attachments 1.4c and 1.4d).

The State will also produce a report card for every LEA (district) and every public school, using this same format. The State has produced school and LEA report cards in a similar format since 1996. Report cards have been and will continue to be available to the public on the Department's Web site and will be sent to local newspapers. School LEAs (districts) will be required to disseminate report cards to parents; local school boards are required to review results at a public meeting (see Attachment 1.5c—letter from the Commissioner and Attachment 1.5d—8 NYCRR §100.2(bb)(2)). The State will also have the report cards translated into Russian, Spanish, Chinese, and Haitian Creole (see Attachment 1.5e). No other population group exceeds two percent of the population.

In September 2002, the State placed on its Web site a list of all schools in the State in school improvement or corrective action status (see Attachments 1.4c and 1.4d).

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>1.6 How does the State Accountability System include rewards and sanctions for public schools and LEAs?<sup>2</sup></p>	<p>State uses one or more types of rewards and sanctions, where the criteria are:</p> <ul style="list-style-type: none"> <li>• Set by the State;</li> <li>• Based on adequate yearly progress decisions; and,</li> <li>• Applied uniformly across public schools and LEAs.</li> </ul>	<p>State does not implement rewards or sanctions for public schools and LEAs based on adequate yearly progress.</p>

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<sup>2</sup> The state must provide rewards and sanctions for all public schools and LEAs for making adequate yearly progress, except that the State is not required to hold schools and LEAs not receiving Title I funds to the requirements of section 1116 of NCLB [§200.12(b)(40)].

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 1.6 How does the State Accountability System include rewards and sanctions for public schools and LEAs?

The State currently has a system of rewards and sanctions for all public schools, and a system of sanctions for Title I LEAs.

For all public schools, 8 NYCRR §100.2(p)(8) (see Attachment 1.1c, p. 414) states that “The commissioner shall establish adequate yearly progress targets for each school performing below a school accountability performance criterion.... A school improvement plan in such format as may be prescribed by the commissioner shall be developed by each school that fails to achieve its adequate yearly progress targets .... The commissioner shall designate as rapidly improving those schools that exceed all of their adequate yearly progress targets by an amount determined by the commissioner ....”

As required by IASA, the State annually evaluates the performance of all Title I schools and LEAs receiving Title I funds. Schools and LEAs that fail to make adequate yearly progress are identified for improvement or corrective action.

In addition, the State also has a program to identify distinguished New York State Title I schools. To be eligible for this award, a school must meet the following criteria:

- 50 percent or more of the students must be eligible for free lunch;
- the school must meet or exceed the State performance standard in *both* English language arts (ELA) and mathematics for three consecutive years;
- 50 percent or more of the students must perform at or above Level 3 on the State ELA and mathematics assessments;
- 90 percent or more of the students must perform at Level 2 and above on the State ELA and mathematics assessments.

Under NCLB, the State plans to recognize public schools and LEAs as high performing that meet or exceed all State standards and achieve AYP for all applicable disaggregated groups of students. The State plans to recognize as rapidly improving public schools and LEAs that are below a State standard but have made AYP for all applicable disaggregated groups of students for three consecutive years. Schools and LEAs that fail to make adequate yearly progress will be subject to improvement and corrective action, except that schools and LEAs not receiving Title I funds will not be subjected to the provisions of Section 1116 of the NCLB act.

By the end of this school year, the Board of Regents shall amend 8 NYCRR §100.2(p)(8) (see Attachment 1.1c, p. 414) to incorporate these provisions into regulation.

### **Rewards and Sanctions for Public Schools and LEAs**

When a school or LEA meets or exceeds all State Standards and makes AYP for all disaggregated groups for which it is accountable, the school or LEA (district) is recognized by the Regents as “High Performing.” The State proposes that when a school or LEA performs below one or more State Standards but makes AYP for all disaggregated groups for which it is accountable for three consecutive years, the school or LEA (district) will be recognized by the Regents as “Rapidly Improving.” When the school or LEA fails to make AYP for two consecutive years, the school or LEA will be identified for improvement. Title I schools and LEAs that continue to fail to make AYP will be subject to corrective action and restructuring. When a school is farthest from the State Standards and most in need of improvement, the school’s registration is placed under review. Registration may be revoked if the school fails to achieve the performance targets established by the Commissioner. See Attachment 1.6a for evidence of rewards. (See the addendum to the Regents in, which is Attachment 1.1b.)

**PRINCIPLE 2. All students are included in the State Accountability System.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>2.1 How does the State Accountability System include all students in the State?</p>	<p>All students in the State are included in the State Accountability System.</p> <p>The definitions of “public school” and “LEA” account for all students enrolled in the public school district, regardless of program or type of public school.</p>	<p>Public school students exist in the State for whom the State Accountability System makes no provision.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>2.1 How does the State Accountability System include all students in the State?</p> <p>8 NYCRR §100.2(p) (see Attachment 1.1c) requires that all public schools in the State be registered by the Board of Regents and that the Commissioner annually evaluate the performance of all public schools. A July 2002 field memo from Deputy Commissioner James Kadamus on the Registration of Public Schools (see Attachment 2.1a) indicates that “For accountability purposes, districts that choose to continue to operate stand-alone programs will be required to report student results from such stand-alone programs based on the schools from which the students articulated.” Article 56 of Education Law (see Attachment 1.1b(1)) requires charter schools to be subject to the State assessment requirements and student performance standards adopted by the Board of Regents.</p> <p>By policy, New York State holds each LEA (district) responsible for students attending schools in the LEA (district) and for students residing in the LEA (district) who by LEA (district) decision are receiving educational services outside the LEA (district) (see Attachments 2.1b and 2.1c—LEAP and STEP Manuals and Attachment 2.1d—NYSAA joint memo). The majority of these students are students with disabilities placed by the LEA (district) Committee on Special Education, IEP Team in New York State, in a Board of Cooperative Educational Services program or in a State approved-private placement. The LEA (district) is responsible for ensuring that these students participate in all appropriate State assessments and for reporting their results to the State. These students will be included in calculating LEA (district) performance on the accountability indicators.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>2.2 How does the State define “full academic year” for identifying students in AYP decisions?</p>	<p>The State has a definition of “full academic year” for determining which students are to be included in decisions about AYP.</p> <p>The definition of full academic year is consistent and applied statewide.</p>	<p>LEAs have varying definitions of “full academic year.”</p> <p>The State’s definition excludes students who must transfer from one district to another as they advance to the next grade.</p> <p>The definition of full academic year is not applied consistently.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>2.2 How does the State define “full academic year” for identifying students in AYP decisions?</p> <p>For the purposes of identifying students in AYP decisions, New York State counts those grades 4 and 8 students who are continuously enrolled in the same school or LEA from the first Wednesday in October until the date of test administration (see Attachments 2.2a—LEAP Manual and 2.2b—SASS Manual). The high school accountability cohort is defined by the student’s year of first entry (year 1) into grade 9 (anywhere). For the cohort, the State will count those students who either a) are continuously enrolled in the school or LEA (district) from the first Wednesday in October of year four until the end of year four or b) drop out of the school and do not enroll in another school program leading to a high school or General Equivalency Diploma. See Attachment 2.2c for information on how the cohort meets the requirements of Section 1111(b)(3)(C)(xi) and Sections 200.20(e)(1) and (2).</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING STATUTORY REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>2.3 How does the State Accountability System determine which students have attended the same public school and/or LEA for a full academic year?</p>	<p>State holds public schools accountable for students who were enrolled at the same public school for a full academic year.</p> <p>State holds LEAs accountable for students who transfer during the full academic year from one public school within the district to another public school within the district.</p>	<p>State definition requires students to attend the same public school for more than a full academic year to be included in public school accountability.</p> <p>State definition requires students to attend school in the same district for more than a full academic year to be included in district accountability.</p> <p>State holds public schools accountable for students who have not attended the same public school for a full academic year.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>2.3 How does the State Accountability System determine which students have attended the same public school and/or LEA for a full academic year?</p> <p>New York State requires that schools and LEAs (districts) identify whether each student who is their reporting responsibility has been continuously enrolled when reporting student performance (see Attachment 2.3a—LEAP Manual). See the State’s response to Critical Element 2.2 for the definition of continuously enrolled.</p>		

**PRINCIPLE 3. State definition of AYP is based on expectations for growth in student achievement that is continuous and substantial, such that all students are proficient in reading/language arts and mathematics no later than 2013-2014.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
3.1 How does the State's definition of adequate yearly progress require all students to be proficient in reading/language arts and mathematics by the 2013–14 academic year?	The State has a timeline for ensuring that all students will meet or exceed the State's proficient level of academic achievement in reading/language arts <sup>3</sup> and mathematics, not later than 2013–14.	State definition does not require all students to achieve proficiency by 2013–14.  State extends the timeline past the 2013–14 academic year.

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<sup>3</sup> If the state has separate assessments to cover its language arts standards (e.g., reading and writing), the State must create a method to include scores from all the relevant assessments.



## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

- 3.1 How does the State's definition of adequate yearly progress require all students to be proficient in reading/language arts and mathematics by the 2013–14 academic year?

The State will use a performance index to determine adequate yearly progress in reading/language arts and mathematics. The annual measurable objective for the 2013–14 academic year requires that 100 percent of students reach the proficiency standards described below. The performance index is described in the response to Critical Element 3.2a and Attachments 3.2a(1) and (2).

The State has defined basic as the performance of a student who scores Level 1 on the grade 4 or 8 English language arts assessment, takes the New York State Alternate Assessment (NYSAA), shows Level 1 growth on the New York State English as a Second Language Achievement Test (NYSESLAT), is a student with disabilities who participates in the local assessment option approved for the 2002–03 school year only, or scores less than a 55 on a Regents examination or less than a 65 on a Regents competency test within four years of first entry into ninth grade. See attachment 1.3b for information on growth standards on the NYSESLAT. (See the State's response to Critical Element 3.2a for a discussion of future use of the NYSA.)

The State has defined proficiency as the performance of a student who scores Level 3 on the grade 4 or 8 English language arts assessment, shows Level 3 growth on the NYSESLAT, scores between 65 and 84 on a Regents examination, or passes an approved alternative to a Regents examination.

The State has defined advanced as the performance of a student who scores Level 4 on the grade 4 or 8 English language arts assessment, shows Level 4 growth on the NYSESLAT, or scores 85 or higher on a Regents examination.

The State has also defined an additional level of achievement: basic proficiency. Basic proficiency is defined as the performance of a student who scores Level 2 on the grade 4 or 8 English language arts assessment, shows Level 2 growth on the NYSESLAT, scores between 55 and 64 on a Regents examination or 65 or greater on a Regents competency test within four years of first entry into ninth grade.

Attachment A, Items 1–2 of the November 20, 2002 report to the Board of Regents (see Attachment 1.2a) defines proficiency in reading/language arts and mathematics as a score of Level 3 or higher on the grades 4 and 8 English language arts and mathematics assessments and a score of 65 or greater on Regents examinations in English language arts and mathematics. 8 NYCRR §100.2(p)(12)(iv) (see Attachment 1.3c) states that Level 3 scores indicate that “a student's performance meets the standards assessed ....”

The Board of Regents approved the Conceptual Framework on December 12, 2002.

By the end of this school year, the Board of Regents shall amend 8 NYCRR Part 100 to incorporate these definitions into regulation.

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>3.2 How does the State Accountability System determine whether each student subgroup, public school and LEA makes AYP?</p>	<p>For a public school and LEA to make adequate yearly progress, each student subgroup must meet or exceed the State annual measurable objectives, each student subgroup must have at least a 95% participation rate in the statewide assessments, and the school must meet the State's requirement for other academic indicators.</p> <p>However, if in any particular year the student subgroup does not meet those annual measurable objectives, the public school or LEA may be considered to have made AYP, if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments for that year decreased by 10% of that percentage from the preceding public school year; that group made progress on one or more of the State's academic indicators; and that group had at least 95% participation rate on the statewide assessment.</p>	<p>State uses different method for calculating how public schools and LEAs make AYP.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>3.2 How does the State Accountability System determine whether each student subgroup, public school and LEA makes AYP?</p> <p>The State will determine whether each student subgroup, public school, and LEA makes AYP in accordance with the attached table (see Attachment 3.2a) and as outlined in the November 20, 2002 and the December 12, 2002 Reports to the Board of Regents (see Attachments 1.1a and 1.1b). The State will identify for school improvement any school that fails to make AYP for two consecutive years on the same measure (English language arts, mathematics, science, or graduation rate) at the same grade level.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>3.2a What is the State's starting point for calculating Adequate Yearly Progress?</p>	<p>Using data from the 2001–02 school year, the State established separate starting points in reading/language arts and mathematics for measuring the percentage of students meeting or exceeding the State's proficient level of academic achievement.</p> <p>Each starting point is based, at a minimum, on the higher of the following percentages of students at the proficient level: (1) the percentage in the State of proficient students in the lowest-achieving student subgroup; or, (2) the percentage of proficient students in a public school at the 20<sup>th</sup> percentile of the State's total enrollment among all schools ranked by the percentage of students at the proficient level.</p> <p>A State may use these procedures to establish separate starting points by grade span; however, the starting point must be the same for all like schools.</p>	<p>The State Accountability System uses a different method for calculating the starting point (or baseline data).</p>

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 3.2a What is the State's starting point for calculating Adequate Yearly Progress?

Starting points for each assessment were based on the performance index in the public school at the 20<sup>th</sup> percentile of the State's total enrollment among all schools ranked by the performance index. This method yielded higher starting points than the method using the lowest achieving student group. The starting points are shown in Attachment 3.2a. Attachment 3.2a(1) documents that the performance index complies with Sections 111(b)(2)(G) and (H) of the No Child Left Behind Act. Attachment 3.2a(2) demonstrates the relationship between the performance index and the percentage proficient.

The Performance Index measures the percentage of full-year *tested students* who scored at Level 2 (basic proficiency) and above, *and* the percentage who scored at Level 3 (proficient) and above on each of the State assessments in English language arts and mathematics. Until such time as the Secretary issues an NPRM and final regulations establishing an exception to this policy for a small group of students with disabilities, New York will in the interim in its Performance Indices hold students participating in the alternate assessment to the same grade level academic content and achievement standards as required by section 200.1 of the final Title I regulations. Implementation of the provisions of section 200.6(a)(2)(ii) will result in all students participating in alternate assessments to be deemed for accountability purposes to be performing at Level 1. We will also recalculate our baselines to reflect that these students are performing at Level 1. Once final regulations have been promulgated, we plan to take full advantage of any opportunities offered to use alternate achievement standards for students with the most significant cognitive disabilities for determining AYP.

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>3.2b What are the State's annual measurable objectives for determining adequate yearly progress?</p>	<p>State has annual measurable objectives that are consistent with a state's intermediate goals and that identify for each year a minimum percentage of students who must meet or exceed the proficient level of academic achievement on the State's academic assessments.</p> <p>The State's annual measurable objectives ensure that all students meet or exceed the State's proficient level of academic achievement within the timeline.</p> <p>The State's annual measurable objectives are the same throughout the State for each public school, each LEA, and each subgroup of students.</p>	<p>The State Accountability System uses another method for calculating annual measurable objectives.</p> <p>The State Accountability System does not include annual measurable objectives.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>3.2b      What are the State's annual measurable objectives for determining adequate yearly progress?</p> <p>The annual measurable objectives that will be applied throughout the State for each public school, each LEA, and each group of students are shown in Attachment 3.2a.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>3.2c What are the State's intermediate goals for determining adequate yearly progress?</p>	<p>State has established intermediate goals that increase in equal increments over the period covered by the State timeline.</p> <ul style="list-style-type: none"> <li>•The first incremental increase takes effect not later than the 2004-2005 academic year.</li> <li>•Each following incremental increase occurs within three years.</li> </ul>	<p>The State uses another method for calculating intermediate goals.</p> <p>The State does not include intermediate goals in its definition of adequate yearly progress.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>3.2c What are the State's intermediate goals for determining adequate yearly progress?</p> <p>As provided in 1111(b)(2)(H), New York State has chosen to establish intermediate goals for adequate yearly progress that provide for the first increase to occur in two years and that increase in equal increments. See Attachment 3.2a.</p>		

**PRINCIPLE 4. State makes annual decisions about the achievement of all public schools and LEAs.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
4.1 How does the State Accountability System make an annual determination of whether each public school and LEA in the State made AYP?	AYP decisions for each public school and LEA are made annually. <sup>4</sup>	AYP decisions for public schools and LEAs are not made annually.
<b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b>		
<p>4.1 How does the State Accountability System make an annual determination of whether each public school and LEA in the State made AYP?</p> <p>Each public school and LEA in New York State is required to report student performance for all students who are its responsibility to the New York State Education Department (see Attachments 4.1a—LEAP Manual and 4.1b—STEP Manual). The State collects and aggregates the data and compares school performance with the standards. The State produces LEAP and STEP verification reports and sends them to LEAs (districts) for the LEAs (districts) to confirm or correct the data to ensure accuracy of reporting (see Attachments 4.1c—LEAP verification report sample and 4.1d—STEP verification report sample). The State then produces school report cards that indicate whether or not the school made AYP in that year and in the two previous years (see Attachment 1.5b—Accountability Report Card sample). The State publishes on its Web site a list of schools that are need of improvement (see Attachments 1.4c and 1.4d). Beginning with the 2002–03 school year, the State will determine if each LEA made its AYP and will publish a list of LEAs in need of improvement.</p>		

<sup>4</sup> Decisions may be based upon several years of data and data may be averaged across grades within a public school [§1111(b)(2)(J)].

**PRINCIPLE 5. All public schools and LEAs are held accountable for the achievement of individual subgroups.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>5.1 How does the definition of adequate yearly progress include all the required student subgroups?</p>	<p>Identifies subgroups for defining adequate yearly progress: economically disadvantaged, major racial and ethnic groups, students with disabilities, and students with limited English proficiency.</p> <p>Provides definition and data source of subgroups for adequate yearly progress.</p>	<p>State does not disaggregate data by each required student subgroup.</p>
<p><b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b></p>		
<p>5.1 How does the definition of adequate yearly progress include all the required student subgroups?</p> <p>New York State requires that schools and LEAs (districts) report student race, ethnicity, gender, disability status, migrant status, English proficiency, and economic status along with student assessment results (see Attachments 5.1a—LEAP Manual and 5.1b—STEP Manual). The State aggregates these data and produces LEA (district) and school report cards with results disaggregated by these groups (see Attachment 1.5a—Overview). The State is proposing to determine if a school has met its adequate yearly progress for student subgroups when the number of students in the subgroup for that school is 40 or greater (see Attachment 1.1b—December 12, 2002 Regents Item). The State is also considering the use of a confidence interval with a minimum group size of 20. (See the State’s response to Critical Element 5.5.) Also see Attachment 1.5b, the draft of the accountability report for the 2002–03 school year.</p>		



CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
5.2 How are public schools and LEAs held accountable for the progress of student subgroups in the determination of adequate yearly progress?	Public schools and LEAs are held accountable for student subgroup achievement: economically disadvantaged, major ethnic and racial groups, students with disabilities, and limited English proficient students.	State does not include student subgroups in its State Accountability System.
<b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b>		
<p>5.2 How are public schools and LEAs held accountable for the progress of student subgroups in the determination of adequate yearly progress?</p> <p>New York State requires that schools and LEAs (districts) report student race, ethnicity, gender, disability status, migrant status, English proficiency, and economic status along with student assessment results (see Attachments 5.2a—LEAP Manual and 5.2b—STEP Manual). The State aggregates these data and produces LEA (district) and school report cards with results disaggregated by these groups to determine adequate yearly progress for the subgroups (see Attachment 1.5a—Report Card Overview).</p> <p>New York State will disaggregate and hold schools and LEAs accountable for the performance of each of the following student subgroups that meet the minimum size requirements for accountability purposes:</p> <ul style="list-style-type: none"> <li>• All Students</li> <li>• Asian</li> <li>• Black</li> <li>• Hispanic</li> <li>• Native American</li> <li>• White</li> <li>• Low-Income</li> <li>• Limited English Proficient</li> <li>• Students with Disabilities</li> </ul> <p>For each school and LEA, the State will determine for each group of sufficient size whether the group achieved the annual measurable objective or met the “Safe Harbor” provision of NCLB and met the 95% participation rate criteria. For a school or LEA to make AYP, every group for which a school or LEA is accountable must make AYP.</p> <p>Also see Attachment 1.5b, the draft of the accountability report for the 2002–03 school year.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
<p>5.3 How are students with disabilities included in the State's definition of adequate yearly progress?</p>	<p>All students with disabilities participate in statewide assessments: general assessments with or without accommodations or an alternate assessment based on grade level standards for the grade in which students are enrolled.</p> <p>State demonstrates that students with disabilities are fully included in the State Accountability System.</p>	<p>The State Accountability System or State policy excludes students with disabilities from participating in the statewide assessments.</p> <p>State cannot demonstrate that alternate assessments measure grade-level standards for the grade in which students are enrolled.</p>

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 5.3 How are students with disabilities included in the State's definition of adequate yearly progress?

All students with disabilities in New York State must participate in statewide assessments, either general assessments or the New York State Alternate Assessment, with or without testing accommodations. The Individualized Education Program (IEP) Team, which is called a Committee on Special Education in New York State, makes the determination as to what assessment the student with a disability will participate in and identifies the testing accommodations that are needed in order for the student to participate in the assessment in accordance with Section 300.347 of the Code of Federal Regulations.

All students with disabilities are included in the accountability system. No distinction is made according to whether students with disabilities taking the general assessments used or did not use accommodations. The determination of adequate yearly progress is based on the performance of all students as well as the performance of each required disaggregated group (see Attachment 1.5b).

Until such time as the Secretary issues an NPRM and final regulations establishing an exception to this policy for a small group of students with disabilities, New York will in the interim in its Performance Indices hold students participating in the alternate assessment to the same grade level academic content and achievement standards as required by section 200.1 of the final Title I regulations. Implementation of the provisions of section 200.6(a)(2)(ii) will result in all students participating in alternate assessments to be deemed for accountability purposes to be performing at Level 1. We will also recalculate our baselines to reflect that these students are performing at Level 1. Once final regulations have been promulgated, we plan to take full advantage of any opportunities offered to use alternate achievement standards for students with the most significant cognitive disabilities for determining AYP. On the New York State District/School Report Card, the performance of students with disabilities is included in the school total and as a separate disaggregated group (see Attachment 1.5a).

See Attachments 5.3a—March 2001 Memorandum entitled “The State Alternate Assessment for Students with Severe Disabilities;” 5.3b—June 4, 2001 Memorandum entitled “2001–2002 New York State Alternate Assessment (NYSAA) Student and Teacher Count Report Form;” 5.3c—*The Learning Standards and Alternate Performance Indicators for Students with Severe Disabilities* (published in 1998); 5.3d—Brochure entitled “The New York State Alternate Assessment for Students with Severe Disabilities;” 5.3e—September 24, 2002 letter to Mr. Michael Slade, Office of Special Education Programs, USDOE, transmitting the 2001–02 New York State Alternate Assessment (NYSAA) data and a plan with detailed steps and timetables for public reporting of the participation and performance of children with disabilities on the alternate assessment; 2.1d—November 2002 Memorandum entitled “Identification of Students Eligible for the NYSAA;” 5.3f—November 2002 memorandum entitled “Data Collection for the 2003 New York State Alternate Assessment (NYSAA).”

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
<p>5.4 How are students with limited English proficiency included in the State's definition of adequate yearly progress?</p>	<p>All LEP students participate in statewide assessments: general assessments with or without accommodations or a native language version of the general assessment based on grade level standards for the grades in which students are enrolled.</p> <p>State demonstrates that LEP students are fully included in the State Accountability System.</p>	<p>LEP students are not fully included in the State Accountability System.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>5.4 How are students with limited English proficiency included in the State's definition of adequate yearly progress?</p> <p>Translations of all State tests (except English Language Arts) are made in several different languages, such as Spanish, Haitian-Creole, Russian, Chinese, and Korean (see Attachment 5.4a). New York State provides glossaries in all other languages and permits oral translations.</p> <p>New York State requires that schools and LEAs (districts) identify limited English proficient students when reporting student assessment results (see Attachments 5.4b—LEAP Manual and 5.4c—STEP Manual). The State will use the New York State English as a Second Language Achievement Test (NYSESLAT) as the required measure of language arts for limited English proficient (LEP) students in grades 4 and 8 who have attended school in the United States for fewer than three consecutive years (and for some LEP students who have attended for four or five years). The NYSESLAT is being scaled in common with the English Language Arts examinations to permit academic progress in the English language to be measured annually for limited English proficient students. The State will count the NYSESLAT scores of these LEP students in computing the school's accountability index. See Attachment 1.3b.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
<p>5.5 What is the State's definition of the minimum number of students in a subgroup required for reporting purposes? For accountability purposes?</p>	<p>State defines the number of students required in a subgroup for reporting and accountability purposes, and applies this definition consistently across the State.<sup>5</sup></p> <p>Definition of subgroup is statistically reliable.</p>	<p>State does not define the required number of students in a subgroup for reporting and accountability purposes.</p> <p>Definition is not applied consistently across the State.</p> <p>Definition is not statistically reliable.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>5.5 What is the State's definition of the minimum number of students in a subgroup required for reporting purposes? For accountability purposes?</p> <p>For Accountability purposes, the State is planning to use a minimum size of 40 for schools.</p> <p>See Attachment 5.5a and the discussion under Critical Element 9.1.</p> <p>Attachment 5.5b shows the numbers of LEAs and schools with 40 or more students in each required subgroup.</p>		

<sup>5</sup> The minimum number is not required to be the same for reporting and accountability.

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
5.6 How does the State Accountability System protect the privacy of students when reporting results and when determining AYP?	Definition does not reveal personally identifiable information. <sup>6</sup>	Definition reveals personally identifiable information.
<b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b>		
<p>5.6 How does the State Accountability System protect the privacy of students when reporting results and when determining AYP?</p> <p>New York State incorporates safeguards to protect the privacy of the individuals to whom data pertains (see Attachment 5.6a—STEP Manual). To ensure student confidentiality, New York State does not publish data for groups with fewer than five students or data that would allow readers to easily determine the performance of a group with fewer than five students. Data for these students is suppressed (see Attachment 5.6b—glossary to the Report Card Overview).</p>		

<sup>6</sup> The Family Education Rights and Privacy Act (FERPA) prohibits an LEA that receives Federal funds from releasing, without the prior written consent of a student's parents, any personally identifiable information contained in a student's education record.

**PRINCIPLE 6. State definition of AYP is based primarily on the State’s academic assessments.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
6.1 How is the State’s definition of adequate yearly progress based primarily on academic assessments?	<p>Formula for AYP shows that decisions are based primarily on assessments.<sup>7</sup></p> <p>Plan clearly identifies which assessments are included in accountability.</p>	<p>Formula for AYP shows that decisions are based primarily on non-academic indicators or indicators other than the State assessments.</p>

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<sup>7</sup> State Assessment System will be reviewed by the Standards and Assessments Peer Review Team.

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 6.1 How is the State's definition of adequate yearly progress based primarily on academic assessments?

The State's definition of adequate yearly progress is based upon academic assessments and graduation rate. Annual measurable objectives for elementary- and middle-level language arts and mathematics will be based on the school accountability performance index. Similarly, annual measurable objectives at the secondary level will be based on performance of the high school cohort in Regents English and mathematics. To comply with the NCLB requirement for a third performance indicator at each grade level, performance standards will be set for elementary- and middle-level science and for high school graduation rate. To make adequate yearly progress on the third indicator, schools must meet or exceed the performance standard or decrease the difference between the previous year's performance and the standard by a set percentage. The following tests shall be used to make other determinations about AYP:

#### **English Language Arts and Mathematics Measures and Assessments**

##### *Elementary-Level Mathematics*

Grade 4 Mathematics Assessment, including translated versions of test; New York State Alternate Assessment (for specified students with disabilities); and Local Assessment Option approved for the 2002–03 school year only (for specified students with disabilities: must be reported as performing at Level 1)

##### *Middle-Level Mathematics*

Grade 8 Mathematics Assessment, including translated versions of test; New York State Alternate Assessment (for specified students with disabilities); and Local Assessment Option approved for the 2002–03 school year only (for specified students with disabilities: must be reported as performing at Level 1)

##### *Elementary-Level Language Arts*

Grade 4 English Language Arts Assessment; New York State Alternate Assessment (for specified students with disabilities); Local Assessment Option approved for the 2002–03 school year only (for specified students with disabilities: must be reported as performing at Level 1); and New York State English as a Second Language Achievement Test (for specified limited English proficient students)

##### *Middle-Level Language Arts*

Grade 8 English Language Arts Assessment; New York State Alternate Assessment (for specified students with disabilities); Local Assessment Option approved for the 2002–03 school year only (for specified students with disabilities: must be reported as performing at Level 1); and New York State English as a Second Language Achievement Test (for specified limited English proficient students)

##### *High School Mathematics*

Regents Examinations in Mathematics (Sequential Math I, II, III; Mathematics A and B), including translated versions; New York State Alternate Assessment (for specified students with disabilities); Approved Alternatives to Regents; and Regents Competency Test in Mathematics

##### *High School Language Arts*

Regents Comprehensive Examination in English; New York State Alternate Assessment (for specified students with disabilities); Approved Alternatives to Regents; and Regents Competency Tests in Reading and Writing.

See Attachment 6.1a for examples of how to calculate AYP using these assessments.



**PRINCIPLE 7. State definition of AYP includes graduation rates for public High schools and an additional indicator selected by the State for public Middle and public Elementary schools (such as attendance rates).**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
7.1 What is the State definition for the public high school graduation rate?	<p>State definition of graduation rate:</p> <ul style="list-style-type: none"> <li>• Calculates the percentage of students, measured from the beginning of the school year, who graduate from public high school with a regular diploma (not including a GED or any other diploma not fully aligned with the state's academic standards) in the standard number of years; or,</li> <li>• Uses another more accurate definition that has been approved by the Secretary; and</li> <li>• Must avoid counting a dropout as a transfer.</li> </ul> <p>Graduation rate is included (in the aggregate) for AYP, and disaggregated (as necessary) for use when applying the exception clause to make AYP.</p>	<p>State definition of public high school graduation rate does not meet these criteria.</p>

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

### 7.1 What is the State definition for the public high school graduation rate?

New York's graduation rate adheres to the requirements of Section 200.19 of the regulations and is based upon the percentage of students, measured from the beginning of high school, who graduate from high school with a regular diploma within four years. (See below for an exception related to schools that offer a high school diploma and additional certification.) In addition, New York also holds schools accountable for students who transfer into a school after the beginning of high school.

To determine the percentage of students in a school or LEA who have graduated with a regular diploma in the standard number of years, we will use as the denominator (beginning with the students who first entered ninth grade in the 2003–04 school year, July 31–June 30) the count of students who meet Condition 1 and either Condition 2 or Condition 3 below:

1. enrolled in ninth grade (anywhere) for the first time in a particular year (year 1) or, for ungraded students with disabilities, attained age 17 during that school year, AND
2. were enrolled in the school or LEA on the first Wednesday of October\* in year 1 and did not transfer to another program leading to a high school diploma, OR
3. transferred into the school or LEA after the first Wednesday of October\* in year 1 and were continuously enrolled in the school or district for a period of five months (excluding July and August), except that students who first enrolled in the school after the first Wednesday in October of year 4 will not be included in the denominator.

The graduation rate will be the percentage of these students who earned a regular high school diploma no later than the end of year 4. An exception will be made for high schools where a majority of students participate in a State-approved five-year program that results in the receipt of certification in a career or technology field in addition to a high school diploma. For those schools, the graduation rate will be the percentage of those students defined in Conditions 1 and 2 who earned a regular high school diploma no later than the end of year 5. The public high school graduation rate will be used pursuant to §1111(b)(2)(1) of the No Child Left Behind Act.

See Attachment 7.1a for New York State's rules for avoiding counting a dropout as a transfer.

See Attachment 1.5a for the presentation of the graduation rate on the 2002–03 report card.

\*The official count of school enrollment in New York State is taken each year on the first Wednesday in October. Using this date as the beginning date rather than day 1 of the school year will result in schools being accountable for more students because of the movement among schools before this date in large districts.

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>7.2 What is the State's additional academic indicator for public elementary schools for the definition of AYP? For public middle schools for the definition of AYP?</p>	<p>State defines the additional academic indicators, e.g., additional State or locally administered assessments not included in the State assessment system, grade-to-grade retention rates or attendance rates.<sup>8</sup></p> <p>An additional academic indicator is included (in the aggregate) for AYP, and disaggregated (as necessary) for use when applying the exception clause to make AYP.</p>	<p>State has not defined an additional academic indicator for elementary and middle schools.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>7.2 What is the State's additional academic indicator for public elementary schools for the definition of AYP? For public middle schools for the definition of AYP?</p> <p>Attachment A of the November 20, 2002 Regents Report, item 5 (see Attachment 1.2a), states that performance of schools and LEAs on the State elementary- and middle-level science tests shall be used as the additional academic indicator until Annual Attendance Rate can be calculated for disaggregated groups. The science tests shall be replaced by annual attendance rate no later than the 2006–07 school year. Performance on the elementary- and middle-level science tests shall be included in the aggregate for AYP and disaggregated for determining whether a subgroup has met the “safe harbor” provision for AYP.</p> <p>The Board of Regents approved the Conceptual Framework on December 12, 2002.</p> <p>By the end of this school year, the Board of Regents will amend 8 NYCRR Part 100 to incorporate this provision into regulation.</p>		

<sup>8</sup> NCLB only lists these indicators as examples.

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
<p>7.3 Are the State's academic indicators valid and reliable?</p>	<p>State has defined academic indicators that are valid and reliable.</p> <p>State has defined academic indicators that are consistent with nationally recognized standards, if any.</p>	<p>State does not have an academic indicator that is valid and reliable.</p> <p>State does not have an academic indicator that is consistent with nationally recognized standards.</p> <p>State does not have an academic indicator that is consistent within grade levels.</p>
<p><b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b></p>		
<p>7.3 Are the State's academic indicators valid and reliable?</p> <p>The State produces academic assessments consistent with the Standards for Educational and Psychological Testing (AERA, NCME, APA, 1999). The State produces a large number of studies attesting to the reliability and validity of State assessment instruments. These studies are available on the Department Web site or upon request from the Office of State Assessment.</p>		

**PRINCIPLE 8. AYP is based on reading/language arts and mathematics achievement objectives.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>8.1 Does the state measure achievement in reading/language arts and mathematics separately for determining AYP?</p>	<p>State AYP determination for student subgroups, public schools and LEAs separately measures reading/language arts and mathematics.<sup>9</sup></p> <p>AYP is a separate calculation for reading/language arts and mathematics for each group, public school, and LEA.</p>	<p>State AYP determination for student subgroups, public schools and LEAs averages or combines achievement across reading/language arts and mathematics.</p>

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<sup>9</sup> If the state has more than one assessment to cover its language arts standards, the State must create a method for including scores from all the relevant assessments.

## STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS

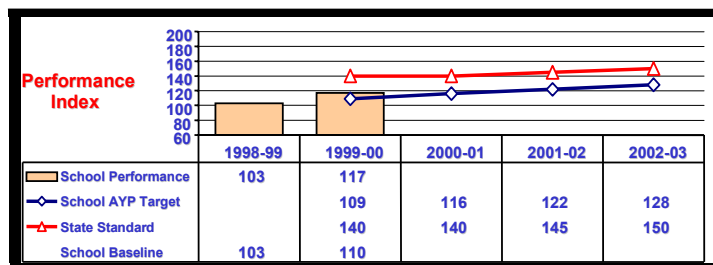
8.1 Does the state measure achievement in reading/language arts and mathematics separately for determining AYP?

Under the System of Accountability for Student Success, the State measures the performance of language arts and mathematics separately at the elementary, middle, and high school level. A School Accountability Performance Index is calculated separately for each of the following: grade 4 language arts, grade 4 mathematics, grade 8 language arts, grade 8 mathematics, high school language arts, and high school mathematics.

The graph below is an example of the accountability page of a 2000–01 school report of how the Accountability Index measures English language arts and mathematics performance separately.

### School Report Card: Example

#### Elementary-Level School Performance in English Language Arts



This school did not achieve the State standard, but shows Adequate Yearly Progress (AYP).

**PRINCIPLE 9. State Accountability System is statistically valid and reliable.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>9.1 How do AYP determinations meet the State's standard for acceptable reliability?</p>	<p>State has defined a method for determining an acceptable level of reliability (decision consistency) for AYP decisions.</p> <p>State provides evidence that decision consistency is (1) within the range deemed acceptable to the State, and (2) meets professional standards and practice.</p> <p>State publicly reports the estimate of decision consistency, and incorporates it appropriately into accountability decisions.</p> <p>State updates analysis and reporting of decision consistency at appropriate intervals.</p>	<p>State does not have an acceptable method for determining reliability (decision consistency) of accountability decisions, e.g., it reports only reliability coefficients for its assessments.</p> <p>State has parameters for acceptable reliability; however, the actual reliability (decision consistency) falls outside those parameters.</p> <p>State's evidence regarding accountability reliability (decision consistency) is not updated.</p>
<p><b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b></p>		
<p>9.1 How do AYP determinations meet the State's standard for acceptable reliability?</p> <p>New York State is conducting extensive analyses of the reliability of AYP decisions based on the performance index (see Attachment 5.5a). We know that there is a probability of error associated with each group decision and that the probability of an error in the school decision increases as the number of groups for which the school is accountable increases. Consistent with the draft report from the State Collaborative on Assessment and Student Standards on "Making Valid and Reliable Decisions in Determining Adequate Yearly Progress," we find that there is a tradeoff between increasing the reliability of decisions and including the maximum number of schools and subgroups in the accountability system. We plan to use a minimum group size of 40 for AYP decisions. This number gives the best balance between reliability of decisions and including the maximum number of schools in the accountability system. The use of a single minimum number has the advantage of being easily understood by the public and easily implemented.</p> <p>We may, in the future, refine our plan by using an "approximate" confidence interval table to increase reliability. This would both increase the reliability of the system and allow the State to provide accountability for disaggregated student groups in a larger number of schools and districts.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
9.2 What is the State's process for making valid AYP determinations?	State has established a process for public schools and LEAs to appeal an accountability decision.	State does not have a system for handling appeals of accountability decisions.
<b>STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS</b>		
<p>9.2 What is the State's process for making valid AYP determinations?</p> <p>New York State provides public school LEAs (districts) with software used locally to enter student records with demographic, programmatic, and assessment data required for school report cards and assessment data. The software generates summary reports showing each school's performance and the district's performance on the accountability measures (see Attachments 4.1c and 4.1d—LEAP and STEP verification reports). Before the data files are submitted to the State, school superintendents are required to review the reports and certify that the data are accurate. When the State receives the data files, similar reports are generated and returned to the school LEA (district). School LEAs (districts) have the opportunity to submit corrected files until a deadline established by the State. See Attachments 9.2a—LEAP and 9.2b—STEP for superintendent certification forms.</p>		



CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>9.3 How has the State planned for incorporating into its definition of AYP anticipated changes in standards or assessments?</p>	<p>State has a plan to maintain continuity in AYP decisions necessary for validity through planned assessment changes, and other changes necessary to comply fully with NCLB.<sup>10</sup></p> <p>State has a plan for including new public schools in the State Accountability System.</p> <p>State has a plan for periodically reviewing its State Accountability System, so that unforeseen changes can be quickly addressed.</p>	<p>State's transition plan interrupts annual determination of AYP.</p> <p>State does not have a plan for handling changes: i.e., to its assessment system, or the addition of new public schools.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>9.3 How has the State planned for incorporating into its definition of AYP anticipated changes in standards or assessments?</p> <p>The November 20, 2002 report to the Board of Regents (see Attachment 1.1a) makes provisions for anticipated changes in assessments. Specifically, Item 8 indicates that upon the implementation of the grades 3 through 8 testing requirements in 2005–06, the State will combine results across grades and use a single School Accountability Performance Index for language arts in grades 3 through 8 and mathematics in grades 3 through 8. When standard setting is done in conjunction with implementation of the grades 3 through 8 testing provisions, the grades 4 and 8 standards will also be reviewed to determine whether they need to be adjusted to reflect new grade by grade academic content standards.</p> <p>The Board of Regents receives reports at least annually on the System of Accountability for Student Success and periodically schedules reviews of major policy initiatives. This practice will continue under NCLB.</p>		

<sup>10</sup> Several events may occur which necessitate such a plan. For example, (1) the State may need to include additional assessments in grades 3-8 by 2005-2006; (2) the State may revise content and/or academic achievement standards; (3) the State may need to recalculate the starting point with the addition of new assessments; or (4) the State may need to incorporate the graduation rate or other indicators into its State Accountability System. These events may require new calculations of validity and reliability.

**PRINCIPLE 10. In order for a public school or LEA to make AYP, the State ensures that it assessed at least 95% of the students enrolled in each subgroup.**

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF NOT MEETING REQUIREMENTS
<p>10.1 What is the State's method for calculating participation rates in the State assessments for use in AYP determinations?</p>	<p>State has a procedure to determine the number of absent or untested students (by subgroup and aggregate).</p> <p>State has a procedure to determine the denominator (total enrollment) for the 95% calculation (by subgroup and aggregate).</p> <p>Public schools and LEAs are held accountable for reaching the 95% assessed goal.</p>	<p>The state does not have a procedure for determining the rate of students participating in statewide assessments.</p> <p>Public schools and LEAs are not held accountable for testing at least 95% of their students.</p>
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>10.1 What is the State's method for calculating participation rates in the State assessments for use in AYP determinations?</p> <p>To calculate participation rates for English language arts and mathematics at each grade level, New York State will count students as tested who take the appropriate assessment from the following list:</p> <ul style="list-style-type: none"> <li>• New York State Regents Examinations or State-approved alternatives,</li> <li>• New York State Testing Program for Grade 4 or 8,</li> <li>• New York State Alternate Assessment,</li> <li>• New York State English as a Second Language Achievement Test,</li> <li>• Local assessment option (approved for the 2002–03 school year only, counted as Level 1), or</li> <li>• Regents Competency Test.</li> </ul> <p>The denominator will be the number of grade 4, grade 8, or secondary-level cohort members enrolled in the school or LEA (district) on the date of testing.</p> <p>Attachment 1.5b shows the proposed format for reporting participation rates.</p> <p>Attachment 2.2c shows how the school accountability cohort meets the participation rate requirement.</p> <p>See the list of English Language Arts and Mathematics Measures and Assessments in the State response to Critical Element 6.1.</p>		

CRITICAL ELEMENT	EXAMPLES FOR MEETING REQUIREMENTS	EXAMPLES OF <i>NOT</i> MEETING REQUIREMENTS
10.2 What is the State's policy for determining when the 95% assessed requirement should be applied?	State has a policy that implements the regulation regarding the use of 95% allowance when the group is statistically significant according to State rules.	State does not have a procedure for making this determination.
STATE RESPONSE AND STATE ACTIVITIES FOR MEETING REQUIREMENTS		
<p>10.2 What is the State's policy for determining when the 95% assessed requirement should be applied?</p> <p>The policy will be applied to any required student accountability group with at least 40 students enrolled on the day of testing.</p>		

## **Appendix A**

### **Required Data Elements for State Report Card**

#### **1111(h)(1)(C)**

1. Information, in the aggregate, on student achievement at each proficiency level on the State academic assessments (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.
2. Information that provides a comparison between the actual achievement levels of each student subgroup and the State's annual measurable objectives for each such group of students on each of the academic assessments.
3. The percentage of students not tested (disaggregated by the student subgroups), except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.
4. The most recent 2-year trend in student achievement in each subject area, and for each grade level, for the required assessments.
5. Aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards disaggregated by student subgroups.
6. Graduation rates for secondary school students disaggregated by student subgroups.
7. Information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement under section 1116.
8. The professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which (for this purpose) means schools in the top quartile of poverty and the bottom quartile of poverty in the State.